

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA

Jimmy F. Scarborough, #292923,	)	
	)	C/A No. 8:07-4129-MBS
Petitioner,	)	
	)	
vs.	)	
	)	<b>O R D E R</b>
Warden Raymond Reed, Jr., Manning	)	
Correctional Institution,	)	
	)	
Respondent.	)	
_____	)	

Petitioner Jimmy F. Scarborough, proceeding pro se, filed the within petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254 on December 28, 2007. In accordance with 28 U.S.C. § 636(b) and Local Rule 73.02, D.S.C., this matter was referred to United States Magistrate Judge Bruce H. Hendricks for pretrial handling.

This matter is before the court on motion for summary judgment filed by Respondent on May 29, 2008. On May 30, 2008, an order was issued pursuant to Roseboro v. Garrison, 528 F.2d 309 (4th Cir. 1975), advising Petitioner of the summary judgment procedures and the possible consequences if he failed to respond adequately. Petitioner filed no response to the motion for summary judgment.

On July 8, 2008, the Magistrate Judge issued an order granting Petitioner until July 31, 2008 to file his response to the motion for summary judgment. Petitioner specifically was advised that if he failed to respond, the action would be subject to dismissal pursuant to Fed. R. Civ. P. 41(b) for failure to prosecute. Petitioner filed no response. Accordingly, on August 12, 2008, the Magistrate Judge issued a Report and Recommendation in which she recommended that the case be dismissed pursuant to Rule 41(b). Petitioner filed no response to the Report and Recommendation.

The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight. The responsibility for making a final determination remains with this court. Mathews v. Weber, 423 U.S. 261, 270 (1976). The court is charged with making a de novo determination of any portions of the Report and Recommendation to which a specific objection is made. The court may accept, reject, or modify, in whole or in part, the recommendation made by the Magistrate Judge or may recommit the matter to the Magistrate Judge with instructions. 28 U.S.C. § 636(b)(1). In the absence of objections to the Report, this court is not required to give any explanation for adopting the recommendation. Camby v. Davis, 718 F.2d 198, 199 (4th Cir. 1983).

The court has carefully reviewed the record and concurs in the recommendation of the Magistrate Judge. The court adopts the Report and Recommendation and incorporates it herein by reference. The within § 2254 petition is dismissed with prejudice pursuant to Rule 41(b) for failure to prosecute.

**IT IS SO ORDERED.**

/s/ Margaret B. Seymour  
United States District Judge

Columbia, South Carolina

September 11, 2008.

**NOTICE OF RIGHT TO APPEAL**

**Petitioner is hereby notified that he has the right to appeal this order pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure.**